THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.20573 OF 2005

Dated: 12-12-2005

Between

P. Dillibabu Reddy, S/o. Venkata Chalapathi Reddy, Managing Director of Gopuram Milk Production Pvt Limited, R/o. 18-1-650, Bhavani Nagar, Tirupati, Chittoor District.

...PETITIONER

AND

The Divisional Railway Manager, South Central Railways, Guntakal and another.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the respondents in not responding to his representation and putting him to heavy loss as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner was the contractor for supply of ice-creams to the Railway Stations of Renigunta and Guntakal and in respect of the said contract petitioner deposited earnest money deposit of Rs.20,000/- and a sum of Rs.13,830/- and even after the completion of the contract period the security deposit has not been refunded and therefore, several representations have been filed but the same have not been considered and disposed.

Counter has been filed stating that the petitioner was awarded contracts in respect of four stations i.e., Kadapa, Tirupati, Dharmavaram and Raichur pursuant to the notification

dated 10.11.2001 and Guntakal and Renigunta stations were allotted to other firms. Even though the said contracts were awarded to the petitioner he failed to remit the security deposit and commence the supply and thereby violated the tender conditions. As a result of which the department has sustained loss and the said amount deposited as security deposit has been forfeited.

No doubt, if there are no disputes with regard to questions of fact, this Court can entertain a writ petition and settle the same.

The disputes in the present writ petition being factual relating to the contractual aspects, the only course open for the petitioner is to raise a dispute for settlement of the claim and as there is a counter claim by the respondents that the department sustained heavy loss due to the action of the petitioner, the said disputed questions of fact cannot be decided in this writ petition.

The writ petition is accordingly dismissed.

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V. ESWARAIAH, J

December 12, 2005

DSK